

MINUTES
of the
LEGISLATIVE CONSUMER COMMITTEE
November 22, 2002
DPHHS Building, Room 107, 111 N. Sanders – Helena, MT

COMMITTEE MEMBERS PRESENT

Senator Walter McNutt, Chairman
Senator Debbie Shea, Vice Chairman
Representative Roy Brown

STAFF PRESENT

Robert A. Nelson, Consumer Counsel
Frank E. Buckley, Utility Analyst
Mary Wright, Attorney
Larry Nordell, Economist
Mandi Shulund, Secretary

VISITORS PRESENT

E.J. Redding, NorthWestern Energy

CALL TO ORDER

The meeting was called to order by Chairman McNutt.

MINUTES OF THE PREVIOUS MEETING

MOTION: Senator Shea moved approval of the minutes of the September 18, 2002 meeting.

VOTE: The motion passed unanimously.

Senator McNutt welcomed Mary Wright and Larry Nordell to the staff of Montana Consumer Counsel.

FINANCIAL REPORT

The financial summary for October 2002 was presented. Bob stated that there were no significant concerns but did mention that salaries are well under budget due to staff vacancies. The workload that MCC has had and anticipates for the remainder of the year may result in 100% of the regular appropriation for

contracted services to be used with the possibility of going into the contingency by the end of fiscal year 2003. However, this could be misleading at this point due to being behind in billing. Representative Brown asked Bob if he was happy with the quality and cost of the consultants that have been retained. Bob stated that basically the same consultants have been used in certain areas for quite some time because he has been happy with the work experiences and success that they have had. These consultants are respected by the PSC and other people that MCC works with.

BOB NELSON PROVIDED THE FOLLOWING HIGHLIGHTS OF CASES CURRENTLY PENDING:

NorthWestern Energy, formerly Montana Power Company

D2002.11.140 - NWE Gas Tracker: The focus the past few years has mainly been on electric prices, but gas prices have been very volatile even though there has been some success in keeping those prices down. This filing reflects the volatility of the gas markets because they basically are flow-throughs of gas costs that the utilities are incurring. Like past gas tracker filings discussed, there are two basic components. One is the over/under collection for a historic 12-month period based on projections that have been made in the last tracker filed. In this case there is still a credit owed, which means they over collected during that period, but the amount over collected was actually less than the credit so there is a slight increase in that part of the tracker. The big increase comes from the projected cost of gas, which is the second component of these trackers. NWE is projecting their gas costs will increase from \$2.17 to \$3.83/dkt, which is a 55% increase. When this is factored in with the other components of the tracker and the other non-gas costs that are not being changed in this proceeding, the residential rate would go from \$4.51 to \$6.12, which is a 36% increase. MCC will be reviewing this filing, which is currently in the discovery phase. Senator McNutt asked if it has been common in the past for a settlement to be reached in these gas trackers. Bob said that it is not common, but MCC has participated in some settlements with cases similar to these. Gas trackers usually have not been too

controversial, with the exception of a Great Falls Gas tracker a few years ago. Although, with the new default supply arrangement, there may be issues coming up about acquisition practices and prudence and possibly other similar issues since a new era is being entered into with NWE on the arrangement for ownership and acquisition of gas supply. Senator McNutt asked if once a price is agreed upon whether there is any mechanism to change that price if gas prices significantly go up. Bob stated that if there is a significant increase in gas prices an out of cycle adjustment could be done, similar to what has been done in the past. Senator Shea asked Bob if the decrease in gas prices the past few years are considered when the percentages in decreases are related to these trackers. Bob stated that there were two reductions, for roughly 18% and 20% for NWE in the last year. Senator Shea then asked if the 38% would be taken away from the 55% and Bob stated that the 38% is overall costs so that would be comparable to the 36% increase. Generally costs will be back to what they were, but to determine this for sure, history would have to be reviewed. Bob will provide the committee with this information.

D2001.12.156, D2002.1.11 - MPC Gas Tracker: This gas tracker was filed for the previous year. MCC entered into a stipulation with NWE that agreed to limit the amount by which the cost would exceed market price by \$970,000 and also agreed to the \$310,539 reduction in prior period costs. The PSC approved that stipulation on 10/10/02. The reductions that resulted from this were roughly \$1.1 million, which was included in the current tracker so that is where it is actually being recovered from now.

D2002.7.81 - Application of NWE to Establish Green Power Service: In HB474 there was a formal requirement for a green service offering by the default supplier. To satisfy this requirement, NWE filed an application to offer green tags, which is a certification that is available through an affiliate of Bonneville Power Administration (BPA). NWE proposed offering customers in all classes the opportunity to purchase the attributes of renewable power generation for \$2.00 per 100 kilowatt-hour block and in return there would be certification that they are

contributing to green power development. The PSC issued Interim Order 6448 on 10/16/02 approving this proposal but required a future filing in March 2003 asking for additional steps to offer green power options to customers.

D2002.7.80 - Avoided Cost Compliance Filing: There are several avoided cost rates, so there are different types of avoided cost filings. This filing relates to the QFLT-1 and STPP-1 rates, which MCC has not been too involved in because the bulk of the impact would be on the QF projects that have already been settled on in the sale docket and this impact would not be flowed through to rate payers. NWE was also proposing a rate reduction in this docket. The PSC issued Interim Order 6434b on 10/11/02 implementing those rate reductions and MCC is reviewing that proceeding because of the tie between the short-term rate (STPP-1) and the Whitehall Wind Project.

D2000.7.98 - Approval of Special Services Contracts to Prevent Uneconomic Bypass of Regulated Distribution Facilities: This application by NWE is to change the classification of Louisiana Pacific and Barrets Minerals, who are industrial customers in Missoula, so that rates charged to them would be reduced. This was presented primarily as an avoidance of economic bypass that has been pending for the past two years. MCC reviewed the case and did not see concern with the change in this classification or justification that NWE was presenting. The PSC issued a preliminary determination on 10/18/02 denying the application but did offer an opportunity for further proposals from interested parties. Louisiana Pacific and NWE both submitted additional proposals and explanation. What NWE is proposing and explaining now is that the industrials are actually leasing the distribution facilities between the substation and their site so they qualify for a different rate. This leads to the issue of whether leasing these facilities is the same as ownership, which is what really qualifies them for the rate. They are also proposing that the lost revenues be recovered from other primary service customers and other large business customers. This is a concern for MCC because the revenue reduction recovered from primary service

customers and other large business customers can be spread back to other large customers. The amount to date of that revenue reduction is \$839,000. In addition to that, they are proposing not only a prospective rate adjustment, but also recovery of what they have lost so far under accounting orders back to July 2000. MCC is currently reviewing these proposals in detail.

D2002.10.130 – Proposed Sale by NWE of Certain Transmission Assets: This filing is related to the sale of MPC's generation assets to PPLM and a provision in that agreement that increased the payments that PPLM would make if they could also obtain other utility shares of ownership in the Colstrip related transmission facilities. The Washington Commission ultimately issued Orders that were not acceptable to those utilities and PPLM walked away from that sale so that money was not received by MPC. The sale agreement said that if this part of the deal did not go through, PPLM would buy the Colstrip related transmission facilities for an additional \$97 million so NWE therefore believes that PPLM is now responsible for following through with this agreement. There is a concern about what this means in terms of market power for PPLM and also whether there is any allocation of gain on that sale which should be reviewed by the PSC. MCC's preliminary review indicated that there is a significant amount of overbook gain involved in the \$97 million. The PSC has established an inquiry in this docket, noting that they have jurisdiction over the sale and transfer of controlled public utility assets which is a contested assertion of jurisdiction. The PSC has also indicated that the proposed sale of NWE transmission assets to PPLM is a significant public utility transaction with large potential impacts on rates and service. NWE did indicate that they will make a filing by 12/13/02.

Cause No. DV-02-197 – NWE v. PPL Montana: NWE has gone to court in Butte seeking specific performance of the contract mentioned above for the sale of those assets with PPL not wanting to go through with that sale. MCC is monitoring this case.

D2002.10.129 – Application of NWE, LLC for Certain Determinations Required of the Public Utility Holding Company Act of 1935 Concerning its Contract with NWE, a Division of NWE Corporation-Montana Megawatts: and

D2002.10.131 – Application of NWE, LLC for Certain Determinations Required of the Public Utility Holding Company Act of 1935 Concerning its Contract with NWE, a Division of NWE Corporation-Milltown: Milltown and Montana

Megawatts are generation facilities that will be owned by affiliates of NorthWestern Corporation, and with the restructuring in place, NWE will be a division of NorthWestern Corporation. There is a requirement under the Public Utility Holding Company Act of 1935 that states if an affiliate of a utility wants to make a sale, that utility, as an exempt wholesale generator, must make filings with FERC that involve certain determinations that the state PSC has to make. Those determinations are that the state has sufficient regulatory authority and resources to determine that the transactions: will benefit customers; will not violate state law (including least cost planning); will not unfairly advantage the exempt wholesale generator with respect to other generators; and overall are in the public interest. NWE had requested these determinations on Milltown and Montana Megawatts in these filings, which MCC did intervene in and will be reviewing. Senator Shea asked if there could be serious consequences for NWE and the precedents they are setting and if this process is slowing down progress in the Great Falls facility. Bob stated that without more information it is unclear right now what the consequences will be and how the Great Falls facility fits in to this process. Senator McNutt asked when Bob thought the jurisdiction issue would be solved and if he felt the PSC would rush into making a decision on this. Bob stated that he wasn't sure if there was a significant jurisdictional issue here and he feels that the PSC would not rush into a decision on this. Bob also feels that from NWE's perspective one of the developments that has pushed their time frame on this is the on going restructuring with their utility. There is no formal proceeding in these filings yet, but there have been questions raised about the moving of their subsidiary that currently contains the utility assets and services into NWE as a division and because of that, there are concerns about what that

means for potential liabilities of the utility and its customers in the end. Because of the movement of utility operations into the Corporation, at the same time they are leaving behind Milltown and its own separate subsidiary and the structure that they are creating prompted this filing to deal with the then affiliate sale between Milltown and the Corporation. Bob feels that what really prompted these filings right now is the Milltown time frame and not so much the Montana Megawatt timeframe. The PSC has decided that the restructuring issue was implicitly if not explicitly dealt with in the sale docket but they are going to review it further.

D2002.8.100 – Whitehall Wind: This filing may be due to the default supply proceedings and discussions that have been going on between wind developers. Last summer there were efforts made to reach an agreement or to at least enter into negotiations with NWE by Whitehall Wind, which is a subsidiary of Navitas, a participant in the Default Supply Docket. At the time, Whitehall Wind was opposing the awarding of the contract to Montana Wind Harness and as a result of the inability to make any progress in negotiations, Whitehall Wind filed a petition on 8/2/02 under Montana's "mini-PURPA" statute. The proposal filed is for a 50mw wind project in Jefferson County at the rate of \$32.75/mwh. Montana law requires that the PSC issue a determination on prices and conditions for the contract within 120 days. A hearing was held on 11/15/02 and the PSC asked for briefs on the issues of whether PURPA applies to a transmission and distribution utility that does not own generation, which is how NWE is configured now, and whether the applicability of PURPA is affected by restructuring. Montana laws seem to actually make these issues more complex rather than just having Federal laws in place. Senator Shea asked how Whitehall Wind qualified to become a QF because if they are part of the portfolio, they should have to participate in a request for proposal and would not automatically be given QF status. Bob stated that QF facilities are defined in Federal law basically as renewable resources, or resources that use particular types of waste fuel with a 50mw cap. Whitehall Wind is a newly created subsidiary of Navitas, which is a

wind generator that has been around for quite sometime who did participate in the Default Supply Docket. The Whitehall Wind subsidiary was created for this project and NWE has made an issue of Whitehall Wind's lack of credit history and planning. There are practical issues about how QF's can be made consistent with a comprehensive portfolio planning process and MCC's view is that the PSC does have the flexibility here to make QF projects consistent with the Default Portfolio Planning Process. Senator Shea asked if Federal Law takes precedence here as long as the actual meaning of Federal Law is not changed and also since State Law is so convoluted, doesn't that make issues harder to deal with. Bob basically agreed with Senator Shea's statement and said that as long as there is no conflict in State Law actually implementing the Federal Law, additional requirements and constraints can be added.

Default Supply Rules: MCC, along with several other parties, submitted comments on the PSC's draft procurement guidelines. The PSC has reviewed the comments submitted and a set of proposed rules were submitted to the Secretary of State on 11/18/02. Bob felt that there was little controversy over most aspects of those rules and with NWE stating that they are comfortable with the procurement and review process, it may be safe to assume that the rules in the form they are in now will be substantially approved. A hearing is set for 1/7/03 and the parties have pretty much accepted a 10-year planning horizon for the default supplier, which is more than likely included in the rules. There was an issue in the default supply docket about whether NWE should be entering into long-term contracts because if the load disappeared as customers went to choice, those contracts could turn into stranded costs. Bob feels that this 10-year planning horizon probably represents somewhat of a compromise there and the initial contracts that NWE has submitted to the PSC include 10-year firm commitments and then options for time beyond that.

Montana Dakota Utilities

D2002.5.59 – General Rate Increase: This filing concerns MDU's general rate case, which is a non-gas cost increase. MDU requested a \$3.6 million increase, or a 6.5% increase overall with the bulk of that being shifted to residential and small customers. The PSC issued Interim Order 6424b on 9/9/02 authorizing a \$1.2 million increase which makes residential rates increase by 5% and firm general rates increase by 1.7%. The Interim Order, probably due to an oversight, implemented the cost allocation changes that MDU was proposing but typically the case with Interim Orders is just an across the board increase. MCC filed testimony on 8/20/02 agreeing that an increase of \$2.4 million, or 4.3%, would be reasonable and further suggested that the increase be spread equally among all customer classes. MCC entered into a settlement agreement with MDU, with the Company largely agreeing with MCC's recommendations although there was a small piece of revenue requirement that had been allocated to the Large Interruptible Customers under MCC's proposal and it was agreed to allocate this revenue requirement to smaller customers because of by-pass concerns. MCC also agreed to an increase in the residential service charge, which MDU had wanted, that provides some additional rate stability for the utility. The result ended in an increase of 4.5% for residential and 3.9% for firm general customers. The PSC approved an interim collection of this change effective 11/15/02, and a hearing is scheduled for 12/6/02. Bob felt that the interim approval indicated at least preliminary acceptance of the stipulation.

D2002.11.141 – Monthly Gas Tracker: MDU is on a monthly gas tracker system and this filing is the most recent as of 11-8-02. There are significant increases in future gas cost projections, the latest with MDU being \$1.32/dkt.

Energy West Montana (formerly Great Falls Gas):

D2002.9.120 – General Rate Increase: On 9/24/02, Energy West Montana filed an application for increased non-gas costs, requesting a \$1.3 million increase which would be a 6.8% increase overall, or a 22.8% increase in non-gas costs

spread out equally to all classes and rate components. MCC entered into a stipulation with EWM that addressed the cost of capital issue, agreeing to a 9.18% rate of return. This issue will not have to be litigated because a stipulation was reached and the impact of the stipulation is a factor in the remainder of the filing.

D2002.9.116 - Monthly Gas Tracker: This filing, made on 10/10/02 was for an increase of \$.038/ccf, or a 6.6% overall increase. Like NWE and MDU, some upward pressure is being seen but apparently not as severe for EWM.

Qwest

FCC WC Docket No. 02-314: This filing relates to the 271 application before the FCC to provide In-region InterLATA service to start engaging in long distance competition within its own service territory, which MCC has generally supported. Qwest filed an application for that authorization with the FCC and because of problems with their accounting system, they withdrew that application and refilled on 9/30/02. MCC filed comments on the re-filing on 10/25/02, which were consistent with the PSC's evaluation of their application except for the item relating to a price squeeze that led the PSC to request a state rate filing that was ultimately aimed at reallocating costs and restructuring rates in the state. MCC feels such a proceeding is a good idea but does not feel it is a good idea to have a Federal Agency tell us what to do to address a particular problem, so MCC objected to the PSC's evaluation on that one issue. Because the PSC had requested a filing from Qwest by 10/02, the PSC's revised evaluation actually recommended rejection of the 271 application to the FCC but MCC continued to recommend approval based on the other components of the PSC's evaluation. The FCC is expected to make a decision by mid-December.

D2000.6.80 – SGAT Review: Qwest has filed some requested rate reductions, which are rates that are paid by competitive local exchange carriers to connect to their system, for unbundled network elements under their Statement of Generally

Available Terms. These are tariffs that are required under Federal law and in order to be compliant with Section 271 they must make these filings with the state commissions. In this particular case, Qwest had made some amendments to their prices for these tariffs and also recommended retroactive approval of these changes. MCC filed comments on 9/20/02 agreeing with the rate reductions but regrettably had to oppose the retroactive rate reductions mainly because of consistency, since the PSC has never had the authority to implement rate changes retroactively. The PSC issued Order 6425a on 10/8/02 agreeing to the reductions but ordered them to go into effect prospectively.

D97.2.19, et al., - Interconnection Agreements: This item relates to seven filings pursuant to the Federal Telecommunications Act. These are Interconnection Agreements that had not been previously filed with the PSC. Interconnection Agreements are all supposed to be filed so their terms are known and available to other competitive carriers. All agreements not being filed has been a contentious issue in many states, so Qwest has undertaken a review of their agreements and are making necessary filings with the Montana PSC. MCC recommended that Qwest disclose the redacted portions of the agreements because MCC wasn't sure exactly what the terms of the agreements were and didn't think that other carriers could know, which the PSC agreed with. The PSC did approve these agreements with the exception of three agreements that had contained provisions for non-participation in Qwest's merger proceedings, which really shouldn't have any prospective impact.

D2002.7.87 – Setting Rates for Unbundled Network Elements: This filing relates to an application to set rates for Unbundled Network Elements. Al Buckalew on behalf of MCC reviewed this rate filing and found that MCC did not need to take issue with any of their proposals. MCC decided not to file any testimony and informed the PSC of this decision. The PSC issued a Notice of Additional Issues, which they typically reserve the right to do in the procedural orders. Two additional issues that were raised in this case were commingling of interLATA

and local traffic on the same trunk groups and ratcheting of prices and the process used to benchmark wholesale prices. Qwest recently filed testimony on these issues and MCC will review and file comments if necessary. Commingling is the potential loss of revenue to Qwest by using a portion of the same facilities under TELRIC (under the Federal Telecommunication Act) pricing versus traditional tariff based pricing for the rest of the facility. Therefore, if both versions of pricing are used, eventually there is a revenue loss.

D2002.10.132 – Triangle Telephone EAS: Extended Area Service was a big issue a few years ago and recently there has been another series of applications, mainly because more companies have become interested in EAS and some problems with EAS arrangements have been worked out between Qwest and some Cooperatives. Triangle Telephone has applied to establish EAS regions in Havre, Lewistown, White Sulphur Springs and Great Falls. The Havre regional exchange could roughly have 150 miles between some of the exchanges involved in the application. The PSC handles these applications in two phases. The first phase is a public interest phase to determine what the calling patterns are among the exchanges. If it is determined that there is sufficient community of interest in these calling patterns, then the second phase is to get a proposal and look at the costs of lost revenues from the long distance calls and the increased facilities investment caused by stimulating the calling, since the charges go down. The PSC looks at the costs and proposals for recovery of those costs for rate design in the second phase.

D2001.11.147 – Mid-Rivers EAS: This docket relates to EAS between the Musselshell exchange and Billings and is currently in the second phase. Qwest filed cost analysis on 10/16/02 indicating a revenue loss of roughly \$300,000 and proposed to recover that cost. Currently their EAS costs are recovered by a statewide surcharge that was scheduled to drop by 3¢ but they proposed to maintain the current surcharge statewide for 34 months to recover this loss.

FERC

RT01-35 – (RTO West): The current status of this docket is that a Declaratory Order was issued on 9/18/02. Overall, FERC was pleased with the filing and indicated that it could potentially form the framework for Western Market Design. This was a significant comment because when Western Market Design framework or regional design is mentioned, this reflects FERC's willingness to at least adopt some of the concerns that people in the West and other regions have brought up about Standard Market Design (SMD) not really being a response to local or regional needs. So FERC has indicated they will accommodate the need for regional differences and felt that the RTO West proposal could probably do that. The items that FERC approved are governance proposals, license plate and export fee rate designs with 8 year transition (although noted market monitor should have authority to accelerate that), most of the congestion management proposal, catalogued transmission rights with voluntary contract conversion, the planning/expansion proposal and inter-RTO seams coordination efforts. In regards to the 8 year transition period, one area where the FERC Order may not agree with RTO West is that FERC has indicated the market monitor may want to reduce the 8 year transition period and that they should allow for that. But FERC seemed to back off of this requirement saying they put it in because the flexibility may not be wanted later on. The items that FERC deferred action on are sufficient operational authority, cost-benefit analysis and most of the Transmission Owner Agreement. One problem here is that FERC will approve the tariff, and the transmission owners will approve the agreement, but when there is a conflict with the tariff, the transmission owners want the agreement to govern and FERC wants the tariff to govern. FERC does not want to view this as a stumbling block and perhaps once it is known what the tariff actually says, FERC may agree with the proposal to have the agreement govern. Bob feels that FERC has been quite accommodating because of the pressure they have been getting as a backlash to the SMD proposal. He feels that FERC sees RTO West as better than nothing if they have to back off from many of the SMD issues. The FERC Order did require additional work and a tariff filing within 120

days of the Order, which will be 1/18/03. Two different working groups have been formed to assist in meeting this schedule. One group discusses the tariff language and one discusses the market structure issues, and both groups meet weekly in Portland. MCC has not been participating in the workgroups but has been following the work being done and are trying to stay tied in to the regional representatives who make up the governing body of these workgroups. FERC also required continued work with SSG-WI, or Seams Steering Group for the Western Interconnection. The SSG-WI is a group that has been set up to resolve the seams problem. FERC wanted to have a huge RTO, but since there are several regional RTO's they wanted to make sure that there is a resolution of the seams issues and where there were differences between market structure for the different RTO's they wanted to make sure that wasn't going to create any market impediments. FERC has been turning to CREPC, or Committee for Regional Electric Power Cooperation for input from the states. Many Commissioners participate in CREPC and Larry has been an active participant as well. The utilities filed a motion asking for clarification of this tariff-filing requirement and FERC agreed, stating that this was a Declaratory Order and there is not a compliance-filing requirement appropriate as a result of Declaratory Orders. Technically the 120-day time frame doesn't really apply but the people working on this are trying to make a good faith effort to meet that timeframe for FERC. MCC did file a request for rehearing and clarification on the RTO West order because one of the issues that MCC had raised was the cost benefit analysis. MCC requested that FERC study upfront the cost benefit issues and if they find a problem, they order that something be done to resolve the problem before all of the work is done instead of looking at the issue in hindsight. To date there has been no action on MCC's request.

RM01-12-000 – SMD: The current status of this docket is that the first round of comments were due 11/15/02 and MCC, in conjunction with the PSC, The Northwest Power Planning Council, Central Montana Cooperative and Western Montana Cooperative filed a motion to vacate the 11/15/02 date so all comments

would be due in January, but FERC denied that motion. MCC has been trying to coordinate comments with these groups along with NWE, but because of this effort to file joint comments, the 11/15/02 date was missed. FERC indicated that they weren't going to be too concerned about this first deadline, which Bob feels is a practical approach because they have a second round of initial comments and some of the issues are not readily separated. One of the issues that they are raising in these comments relates to the cost benefit issue with respect to RTO West and also the need for flexibility for regional solutions.

ER99-3491-002 – PPLM: PPLM is regulated by FERC and not the PSC at this point. PPLM has been given market based rate authorization and FERC, because they have jurisdiction over those generators, could actually regulate them on a cost of service basis. Under certain circumstances, FERC authorizes generators to charge market based rates and what those circumstances ought to be for market based rate authorization have been a recent issue. MCC has intervened and filed comments on 9/25/02 in an investigation into those conditions and PPL has filed a Triennial Market review application in order to get continued authorization for market-based authority. The only other intervenor is Energy West Montana of Great Falls. MCC supported Energy West's filing and their request that FERC evaluate PPL's market power more closely, which is consistent with comments that MCC has filed in Docket EL01-118-000. Energy West also requested a review of connections between PPLM and PPL Energy Plus. PPL Energy Plus is the entity that has issues in the East with some market manipulation. To date FERC has not acted on this docket, and this is another potential avenue for addressing some of the cost concerns and trying to make available some reasonably priced power within our market area.

Mountain Water Company

D2002.5.60: A settlement was filed in this proceeding on 10/30/02. Mountain Water had requested a \$1.6 Million increase, or about round 13.5%. Frank's recommendation was \$983,937 or 8.2%, with a 10.5% return on equity.

Mountain Water essentially accepted this recommendation in the settlement. A hearing is set for 11/26/02 to consider this proposal.

Havre Pipeline

D2002.8.99: This filing is an application for a rate decrease to direct rural farmstead customers. MCC reviewed the filing and after conducting discovery, found no objections to the rate decrease and did notify the PSC on 11/4/02.

Ronan Telephone

D2000.1.14 and D2000.5.63: These dockets relate to a reciprocal compensation rate filing and a related complaint with Blackfoot Telephone. These reciprocal compensation rates are rates that carriers pay each other for local transport determination when they are exchanging traffic. MCC did file testimony, basically about some problems with Ronan Telephone's cost studies and their rate request. MCC recommended a bill and keep arrangement, which is another way of compensating for the interconnections. Ronan and Blackfoot have filed a settlement, which MCC had not been a part of, so the PSC has preliminarily adopted their agreement subject to comments after they file a tariff that will actually implement that agreement. That tariff has recently been filed, so the next step will probably be notice of opportunity to comment from the PSC.

M&W Investments

D2002.8.102: This application relates to a small water and sewer operation in Helena for initial water and sewer rates for Skyview Subdivision. MCC is reviewing this case and testimony is due 1/7/03.

Senator Shea asked if there was anything in the works about the mini-PURPA laws to try to do something on a state level to make them more inline with what is going on. Mary stated that she has had some discussions with PSC staff that will be in charge of either suggesting or reviewing other legislation in the energy area and they have not mentioned this particular statute as something to be changed

or eliminated. Mary felt that there is some thought that perhaps this issue was missed when restructuring occurred and that it possibly should have been harmonized with restructuring or eliminated all together. Bob stated that with respect to HB474 and the nullification of that law, there may be some questions about the default supply order that was issued because that relied to a great extent on HB474 and the direction there. Bob understands that what the PSC intends to do after they have reviewed it is to issue what is called a nunc pro tunc order to make corrections. They intend to achieve the same result in that default supply order possibly using some different rationales so there should be no change in the outcome. Representative Brown asked Bob if he had any particular ideas or recommendations on potential legislation for the next legislative session that might help MCC do their work. Bob hadn't thought about this issue from MCC's perspective but will let the committee know of any ideas that he has.

Hiring of Expert Witnesses

MCC has not gotten far enough into the NWE Tracker Application D2002.11.140 to know exactly what issues may be raised or what MCC may want to comment on but because it is a significant increase, Bob requested the authorization to retain George Donkin to assist in the NWE Gas Tracker.

MOTION: Representative Brown moved approval to retain the services of George Donkin to assist with the NWE Gas Tracker filing.

VOTE: The motion passed unanimously.

Adjournment

There being no further business to come before the committee, the meeting adjourned.

Respectfully submitted,

_____, Robert Nelson, Consumer Counsel

Accepted by the Committee this _____ day of _____, 2003

_____, Chairman